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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/687,691	10/13/2000	Anthony J. Baerlocher	0112300/483	7698

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EXAMINER

COBURN, CORBETT B

ART UNIT PAPER NUMBER

3714

DATE MAILED: 09/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/687,691

Applicant(s)

BAERLOCHER, ANTHONY J.

Examiner

Corbett B. Coburn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23,25-27 and 29-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 35-37 is/are allowed.
- 6) ☒ Claim(s) 1-23,25-27 and 29-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 6, 12-18, 21, 22 & 24-28, are rejected under 35 U.S.C. 103(a) as being unpatentable over Geddes et al. (*Slot Machines On Parade*, The Mead Company, 1980) in view of Epstein (*The Theory of Gambling and Statistical Logic*, pp 117 & 118).

**Claims 1 & 18:** On page 127, Geddes shows a Multi-Bell Seven Way slot machine from 1936. The Multi-Bell has a controller with means for determining the amount of a player's wager including any component of the player's wager. (Wagers of potentially different amounts on the payline were dropped through different slots.) There is a display device (the reels) connected to the controller. When the player pulled the handle after depositing the bet, the reels were spun – this is a game adapted to be displayed to the player on the display device. There are a plurality of awards. There appears to be only a single payline. A player bet one to seven coins on the payline. Each coin bet increased the odds of winning. It appears that the odds increased linearly as the number of coins bet increased due at least in part to a variation of odds in the game of obtaining an outcome predetermined to yield the designated award.

Applicant has argues that the Multi-Bell Seven Way fails to teach this limitation because the Applicant believes that the odds are set by the symbol on the third reel. Examiner does not believe this to be the case. It is Examiner's belief that the odds are determined by the odds of achieving a particular combination. Thus, three strawberries will always pay two coins and three pears will always pay 12 coins. This is, of course, the way that the vast majority of slot machines worked at the time (and still work today). Furthermore, the printing of the payout multiplier on the indicia was well known. On pages 26-28, Geddes shows three multiple-head slot machines with the multiplier printed on the indicia. As is readily apparent, the multiplier is the same for matching indicia – e.g., all of the white indicia on the Brownie Jackpot pay 10 to 1.

Examiner may, of course, be wrong. There may have been more than a single multiplier value for three strawberries. This would not change the fact that the odds of achieving a winning combination increased linearly as the number of coins bet increased due at least in part to a variation of odds in the game of obtaining an outcome predetermined to yield the designated award. It would only mean that the multiplier would change. A person would still be more likely to get a winning combination by betting two coins than if he only bet one. Applicant's claim cannot be read to require that the odds of getting a particular winning combination increases as the number of wagerable components increase. Applicant's claim only requires that the odds of achieving some winning combination increase linearly as the number of coins bet increased due at least in part to a variation of odds in the game of obtaining an outcome

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predetermined to yield the designated award. Examiner believes that the Multi-Bell Seven Way meets that limitation.

Be that as it may and giving the Applicant the benefit of the doubt, if the Multi-Bell Seven Way does not teach this limitation, it is well known in the art that odds on slot machine can be set in any manner to achieve the level of payout desired. Epstein teaches that the odds can be set anywhere from .9 expected return to almost no expected return. (Pages 117 & 118) Gambling is, after all, nothing more than applied probability and one of ordinary skill in the art could be expected to know the laws of probability and how to change the odds to achieve the desired expected return and thus the desired casino take. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Multi-Bell Seven Way in view of Epstein to have made the odds of achieving a winning combination increased linearly as the number of coins bet increase due at least in part to a variation of odds in the game of obtaining an outcome predetermined to yield the designated award in order to set the expected return and casino take at the desired level.

The Multi-Bell does not teach a plurality of paylines. Thus there are not a plurality of type of wagerable components. Multi-payline slot machines are extremely well known to the art. Geddes teaches a multi-line machine on page 179. Multi-payline machines are known to increase player wagering, thus increasing profits. It would have been obvious to one of ordinary skill in the art at the time of the invention to have included multiple paylines in the Multi-Bell (as taught by the Fortune Triple Bar Special) in order to increase player wagering, and thus increase profits.

The controller requires the player to select an amount for the wagerable component to operate the game – the game will not operate without coins being bet on one or more paylines. This is selecting the amount for the wagerable component. The player-selected wager per payline and a player-selected number of paylines wagered must, by definition, form an overall wager. The overall wager is required to initiate the game (i.e., spin the wheels) to be eligible for winning.

The game has odds of winning a designated award. The odds change whenever either one or both of the different wagerable components change. A player could bet up to seven coins on the reels. Each coin corresponds to a symbol on the reels. If the player bet one coin, the odds were lower than if the player bet more coins.

As noted above, the Multi-Bell has a controller. The controller appears to be mechanical. Microprocessor controllers are well known to the art. It is well known that the microprocessor controllers have fewer moving parts than mechanical controllers. This makes microprocessor controllers easier to maintain than mechanical controllers. It would have been obvious to one of ordinary skill in the art at the time of the invention to have used a microprocessor controller in order to have fewer moving parts, thus making the machine easier to maintain.

**Claim 2:** The odds of winning increase as the amount of any component of the wager increases. The more coins wagered on a particular payline, the greater the chance of winning. The more paylines wagered upon, the greater the chance of winning.

**Claims 3 & 6:** The Multi-Bell machine teaches the invention substantially as claimed.

The Multi-Bell machine has multiple reels each with a payline and the odds of winning a

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payout increase when the player increases the amount wagered on each payline. The Multi-Bell machine has one payline and seven different symbols. As pointed out above, it would have been obvious to have multiple paylines. Increasing the bet on any payline increases the odds that the player will receive a payout. The player obviously could bet different amounts on the paylines – for instance, the player could bet four coins on the first and three on the second.

**Claims 12, 13, 15 & 16:** The Multi-Bell teaches a gaming machine with a plurality of reels and it would have been obvious to include multiple paylines. There is a smallest machine allowable wager on a payline (one coin) and a largest machine allowable wager on a payline (7 coins). A player wagering the smallest machine allowable on one of the paylines has a chance to win the maximum payout or jackpot.

The Multi-Bell fails to teach that the payout ratio of the amount wagered versus odds of winning for the jackpot award is constant regardless of the number of paylines wagered and the amount wagered per payline. This is because Multi-Bells had only one payline. As noted above, it would have been obvious to have multiple paylines. Since the payout ratio of the amount wagered versus odds of winning for the jackpot award is constant with the payline shown, the payout ratio of the amount wagered versus odds of winning for the jackpot award would obviously be constant if there were multiple paylines.

**Claim 14:** The Multi-Bell teaches the odds of winning increase as the player's wager increases.

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**Claim 17:** The Multi-Bell teaches the invention substantially as claimed. The Multi-Bell slot machine does not, however, have a progressive jackpot. Examiner takes official notice that progressive jackpots are extremely well known in the art. These jackpots can grow to significant sizes and tend to attract more customers. It would have been obvious to one of ordinary skill in the art at the time of the invention to have used a progressive jackpot so that the jackpot could grow to significant sizes and attract more customers.

**Claims 21 & 22:** The Multi-Bell game includes the production of a plurality of symbols on the wheel and the award is dependent on the production on a predetermined symbol on a payline. The winning symbol is dependent on the number of wagered paylines and the amount wagered on the paylines.

3. Claims 4, 5, 8, 9, 10, 11 & 19 rejected under 35 U.S.C. 103(a) as being unpatentable over Geddes and Epstein as applied to claims 3, 6, or 18 above, in view of Travis et al. (US patent Number 5,380,007).

**Claims 4, 8, 10 & 19:** The Multi-Bell & Epstein teach the invention substantially as claimed. The Multi-Bell does not, however, specifically teach making a number of attempts at randomly producing the award depending on the amount wagered on the payline or the number of paylines wagered upon. Doing so is the same as treating each amount wagered as a separate game or separate lottery ticket. Travis teaches accepting a bet on a lottery game and automatically replaying the game for a number of times to reflect the initial amount bet. (Col 4, 41-56) Thus if a player deposits a bet of \$1.00 and the minimum bet is 25¢, then the game will be played four times. This gives the player the impression that he is getting more for his money because instead of one spin, there



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are four. This would tend to increase player satisfaction. It would have been obvious to one of ordinary skill in the art at the time of the invention to have made a number of attempts at randomly producing the award depending on the amount wagered on the pay line in order to give players the impression that they are getting more for their money, thus increasing player satisfaction.

**Claims 5, 9 & 11:** The odds constant that affects the number of spins or the chance of winning with the Multi-Bell machine is 1. The use of methods to generate the desired odds are well known in the art – the art primarily consists of this study. Only when the odds are in the desired range can a casino remain profitable. It would have been obvious to one of ordinary skill in the art to have used an odds constant to affect the odds of winning in order to generate the desired odds necessary to maintain profitability.

4. Claims 7, 23, 25-27, 29 & 30-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Geddes & Epstein as applied to claim 6, 18 or 25 above, in view of Wurz et al. (US Patent Number 6,334,612).

**Claims 7, 23, 25-27 & 29:** Geddes & Epstein teach the invention substantially as claimed. Geddes does not, however, teach a bonus round triggered by a bonus condition in which the player can win an award. Such bonus rounds are well known in the art. They provide excitement to the player. Wurz teaches a gaming machine with a bonus round triggered by a bonus condition in which the player can win an award. (Col 4, 61-67) It would have been obvious to one of ordinary skill in the art at the time of the invention to have added a bonus round triggered by a bonus condition to the Multi-Bell machine (as suggested by Wurz) in which the player can win an award in order provide

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excitement to the player. The Multi-Bell teaches that the odds of winning a game increases with the amount wagered on each payline. It would have been obvious to provide multiple paylines. Obviously, if a bonus round were a payout of the base game, then the odds of winning entry into the bonus round would increase with the number of paylines bet and the amount wagered on each payline. As with all slot machines, the odds of winning increase when the number of paylines bet increases. Obviously, therefore, the odds of winning in the bonus round (i.e., opportunities to achieve an award) increases as the number of paylines increases.

**Claims 30, 32 & 34:** The odds constant that affects the chance of winning with the Multi-Bell machine is 1. The use of methods to generate the desired odds are well known in the art – the art primarily consists of this study. Only when the odds are in the desired range can a casino remain profitable. This would include odds within the bonus round. It would have been obvious to one of ordinary skill in the art at the time of the invention to use an odds constant to determine the chance of winning a payout, triggering the bonus game, or the number of spins in the base or bonus game to affect the odds of winning in order to generate the desired odds necessary to maintain profitability.

**Claims 31 & 33:** Geddes teaches the invention substantially as claimed. The predetermined probability of winning on a Multi-Bell machine is dependent on the amount wagered on the payline. As pointed out above, bonus rounds are common in the art. The bonus round often consists of playing the same type of game as the base game. This allows a casino to have a bonus game without having to buy a machine with additional hardware. This reduces costs. It would have been obvious to one of ordinary

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skill in the art at the time of the invention to have made the predetermined probability of triggering the bonus round and the probability of winning the bonus round dependent on the amount wagered on the paylines in order to have the bonus round match the underlying game, thus reducing costs by allowing a casino to have a bonus game without having to buy a machine with additional hardware.

***Allowable Subject Matter***

5. Claims 35-37 are allowed.

***Response to Arguments***

6. Applicant's arguments with respect to claims 1-23, 25-27 & 29-34 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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8. This is an RCE of applicant's earlier Application No. 09/687,691. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corbett B. Coburn whose telephone number is (703) 305-3319. The examiner can normally be reached on 8-5:30, Monday-Friday, alternate Fridays off.

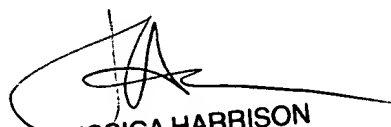
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (703) 308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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cbc



JESSICA HARRISON  
PRIMARY EXAMINER